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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/012,846 01/23/98 CHARETTE M CRP-141

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BOSTON MA 02111

HM12/0410

EXAMINER

TURNER, S

ART UNIT	PAPER NUMBER
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1647

DATE MAILED: 04/10/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

# Office Action Summary

Application No.

09/012,846

Applicant(s)

Charette

Examiner

Sharon L. Turner, Ph.D.

Group Art Unit

1647

☒ Responsive to communication(s) filed on 1-25-01☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 28-45 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.☐ Claim(s) \_\_\_\_\_ is/are rejected.☐ Claim(s) \_\_\_\_\_ is/are objected to.☒ Claims 28-45 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been☐ received.☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1647

**Response to Amendment**

1. The Art Unit of U.S. Patent application SN 09/012,846 has changed. In order to expedite the correlation of papers with the application please direct all future correspondence to Examiner Turner, Technology Center 1600, Art Unit 1647.

***Continued Prosecution Application***

2. The request filed on 10-25-00 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/012846 is acceptable and a CPA has been established. An action on the CPA follows.

3. The amendment filed 1-25-01 has been entered into the record and has been fully considered. Claims 2, 5-11 and 23-27 have been canceled. New claims 28-45 are pending.

***Election/Restriction***

4. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 28-45, drawn to a method of treating hippocampal tissue, classified in class 424, subclass 198.1.

5. Claims 28 and 37-38 are generic to a plurality of disclosed patentably distinct species comprising OP-1, BMP2, BMP-5, BMP-6 and 60A. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

Art Unit: 1647

examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

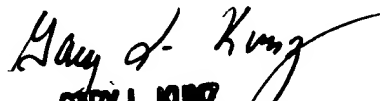
Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

6. Any inquiry of a general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for Group 1600 is (703) 308-4242.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Turner, Ph.D. whose telephone number is (703) 308-0056. The examiner can normally be reached on Monday-Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached at (703) 308-3973.

Sharon L. Turner, Ph.D.  
April 6, 2001

  
**GARY L. KUNZ**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**